

By: Hilderbran

H.B. No. 3842

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the issuance of statements of ownership and location
3 for manufactured homes to certain lienholders without the consent
4 of the owners of those homes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter E, Chapter 1201, Occupations Code, is
7 amended by adding Section 1201.2077 to read as follows:

8 Sec. 1201.2077. ISSUANCE OF STATEMENT OF OWNERSHIP AND
9 LOCATION TO CERTAIN LIENHOLDERS WITHOUT OWNER'S CONSENT. (a) This
10 section applies only to a manufactured home:

11 (1) that is eligible for conversion from personal
12 property to real property under this subchapter;

13 (2) that, together with the real property to which the
14 home is attached, was intended to secure a first lien mortgage loan
15 that has gone into default and is now subject to foreclosure; and

16 (3) for which the person who made the first lien
17 mortgage loan and the borrower-owner, at the time of the making of
18 the mortgage loan, executed documents that evidenced their mutual
19 intent for the owner-borrower to have converted the home to real
20 property and granted a first lien on that real property, including
21 the manufactured home, to secure that mortgage loan.

22 (b) A holder or servicer of a mortgage loan that seeks to
23 foreclose a first lien on a manufactured home described by
24 Subsection (a) that now seeks to foreclose such a lien may apply

1 without the consent of the borrower-owner for the issuance of a new
2 statement of ownership and location that reflects an intent to
3 convert the home from personal property to real property. An
4 application under this section must include an affidavit from the
5 holder or servicer making the application that:

6 (1) contains the election described by Section
7 1201.2055(a);

8 (2) states that it had been the intent of the
9 owner-borrower to convert the manufactured home to real property
10 and grant the maker of the mortgage loan a first lien on the
11 manufactured home, together with the real property to which it is
12 attached;

13 (3) states that the borrower-owner failed to convert
14 the manufactured home to real property;

15 (4) states that the holder of the mortgage loan
16 advanced loan proceeds to or for the benefit of the owner of the
17 manufactured home in reliance on the owner's carrying out the
18 conversion of the manufactured home to real property and granting
19 the holder a first lien on that manufactured home together with the
20 owner's interest in the real property on which it is located; and

21 (5) states that the holder or servicer of the mortgage
22 loan giving the required affidavit has, despite reasonable efforts,
23 been unsuccessful in contacting the owner of the manufactured home
24 to have them re-execute and deliver the required documents to
25 convert the manufactured home to real property as originally
26 contemplated.

27 (c) Not later than the 15th working day after the date of

1 receipt of the completed application and subject to Section
2 1201.2075, the department shall issue a new statement of ownership
3 and location reflecting that the manufactured home has been elected
4 as real property and the mortgage loan holder or servicer who
5 applied for this statement of ownership and location may make the
6 necessary filings and give the necessary notices to complete the
7 process of converting the manufactured home to real property as
8 provided in Section 1201.2055.

9 SECTION 2. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.